

ENTERED

April 19, 2021

Nathan Ochsner, Clerk

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

UNITED STATES OF AMERICA,	§	
	§	
	§	
VS.	§	CRIMINAL ACTION NO. 11-CR-00722
	§	
	§	
ABRAHAM MOSES FISCH,	§	

**MEMORANDUM OPINION AND ORDER DENYING MOTION FOR
COMPASSIONATE RELEASE**

Abraham Moses Fisch, a federal prison inmate, seeks compassionate release and a sentence reduction to time served. (Docket Entry No. 728). A jury convicted Fisch on one count of conspiracy to obstruct justice, in violation of 18 U.S.C. § 371; four counts of obstruction of justice, in violation of 18 U.S.C. §§ 1503 and 2; one count of conspiracy to commit money laundering, in violation of 18 U.S.C. § 1956(h); seven counts of money laundering, in violation of 18 U.S.C. §§ 1957 and 2; and five counts of failure to file timely tax returns, in violation of 26 U.S.C. § 7203. (Docket Entry No. 482). The court sentenced Fisch to 180 months in prison and five years on supervised release and ordered him to pay a significant financial penalty. (*Id.*). The Fifth Circuit affirmed Fisch's conviction and sentence, *United States v. Fisch*, 851 F.3d 402 (5th Cir. 2017), and the Supreme Court denied his petition for a writ of *certiorari*, *Fisch v. United States*, 138 S.Ct. 378 (2017). Fisch has served approximately 5.5 years of his 15-year sentence. He is projected to be released in 2028. (Docket Entry No. 728 at 3). He is incarcerated at FCI Bastrop.

In July 2020, Fisch requested temporary release to home confinement. His request was initially approved by the warden but denied on review by the Central Office in Washington, D.C.. (Docket Entry No. 728 at 2). Fisch then filed a request for compassionate release with the warden. That request was denied. (Docket Entry No. 728-1). He now moves this court to order his

compassionate release under 18 U.S.C. §3582(c)(1)(A). Based on Fisch's motion, the government's opposition, the record, and the governing law, Fisch's motion is denied. The reasons are explained below.

Between 2006 and 2011, Fisch, a criminal-defense lawyer licensed in Texas, defrauded defendants in criminal cases facing severe penalties by persuading them to fire their lawyers and pay him over a million dollars for "guaranteed" dismissals or other favorable resolutions of their pending court cases. There were no such dismissals or resolutions, and Fisch failed to report or pay taxes on the money he was paid.

Fisch is 62 years old. He reports hypertension, a decades-old concussion depression, a 2017 positive TB test, type-2 diabetes, and obesity. (Docket Entry No. 728 at 6; Docket Entry No. 728-2). He has submitted a letter from a medical consultant opining that Fisch is at "increased risk for severe illness and death from COVID-19." (Docket Entry No. 728-4).

The BOP medical records show that Fisch is receiving treatment for his various medical conditions. (Docket Entry No. 728-2). He claims a history of concussions, but this goes back to high school, and his claim of cognitive deficit is inconsistent with his college and law degrees and years of law practice. He acknowledges that he contracted COVID and recovered. He claims to continue to suffer from a skin rash since COVID, but the BOP records show that he is receiving treatment for that rash, including different prescriptions and ointments. (Docket Entry No. 734-1) The BOP records also show that although Fisch asserts a fear of reinfection, he was offered and refused the Pfizer vaccination. (Docket Entry No. 734-2).

The court acknowledges the grave health risks COVID presents, particularly acute for those in crowded prisons and jails. As of April 16, 2021, at FCI Bastrop, there were seven staff and no inmates with active COVID-19 cases. (See BOP COVID-19 Resource Page,

<https://www.bop.gov/coronavirus> (last accessed April 16, 2021). There has been one inmate death from COVID-19, while 441 inmates and 35 staff have recovered. (See BOP COVID-19 Resource Page, <https://www.bop.gov/coronavirus> (last accessed April 16, 2021)).

Fisch is receiving treatment for his underlying illnesses. He had and recovered from COVID, with a skin rash that the BOP is treating. He has served too little of his sentence, and his medical conditions are not so severe, as to justify the compassionate early release he seeks. He has not demonstrated “extraordinary and compelling reasons” warranting compassionate release under § 3582(c)(1)(A).

The § 3553(a) factors do not help Fisch. He defrauded vulnerable criminal defendants, inflicting great financial and personal costs on them and their families. The record shows that if Fisch was released now, he would pose a danger to the community. U.S.S.G. § 1B1.13(2). The § 3553(a) factors add to the reasons for denying relief.

Fisch’s motion for compassionate release, (Docket Entry No. 728), is denied.

SIGNED on April 19, 2021, at Houston, Texas.

A handwritten signature in black ink, reading "Lee H. Rosenthal", written over a horizontal line.

Lee H. Rosenthal
Chief United States District Judge